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6 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
7 AT SEATTLE

8 TRAVIS SKYLER OWEN FRANKLIN,

9 Plaintiff,

10 v.

11 DIEGO LOPEZ DE CASTILLA, et al.,

12 Defendants.

CASE NO. C17-594-JLR-BAT

**ORDER DENYING SECOND  
MOTION TO APPOINT COUNSEL**

13 Plaintiff Travis Franklin, who is proceeding *pro se* and *in forma pauperis* in this civil  
14 rights action, has filed a motion to appoint counsel. Dkt. 12. This is plaintiff's second motion  
15 for counsel. His first motion, Dkt. 4, was denied. For similar reasons, the Court **DENIES** this  
16 second motion **WITHOUT PREJUDICE**.

17 Generally, a person has no right to counsel in a civil action. *See Campbell v. Burt*, 141  
18 F.3d 927, 931 (9th Cir. 1998). The Court may appoint counsel for indigent civil litigants under  
19 28 U.S.C. § 1915(e)(1), but only under "exceptional circumstances." *Agyeman v. Corrections*  
20 *Corp. of Am.*, 390 F.3d 1101, 1103 (9th Cir. 2004). When determining whether "exceptional  
21 circumstances" exist, the Court considers "the likelihood of success on the merits as well as the  
22 ability of the [plaintiff] to articulate his claims pro se in light of the complexity of the legal issues  
23 involved." *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983).

1 Plaintiff's second motion contends exceptional circumstances exist because he has mental  
2 and physical disabilities and little education, "which prevents him from understanding the legal  
3 documents he receives from the defendants and the Court." Dkt. 12 at 3. The Court understands  
4 this second motion was filed with the assistance of a fellow inmate. *Id.* at 1. But even assuming  
5 without deciding that plaintiff is unable to articulate his claims *pro se* in light of the complexity  
6 of the legal issues involved, plaintiff has still failed to show a likelihood of success on the merits.  
7 Plaintiff's amended complaint contends the defendant failed to timely schedule a kidney biopsy  
8 or send plaintiff to a nephrologist, thereby "either purposefully ignor[ing] or fail[ing] to respond  
9 to [his] pain and medical needs" and resulting in long-term medical complications. Dkt. 6 at 3.  
10 Though the exhibits attached to plaintiff's second motion to appoint counsel discuss to some  
11 extent treatments given or not given to address plaintiff's kidney disorder, they are insufficient to  
12 establish plaintiff is likely to prevail on the merits of his claim. *See* Dkt. 12. Appointment of  
13 counsel is therefore not justified at this time, and the Court **DENIES** the motion, Dkt. 12,  
14 **WITHOUT PREJUDICE**. Plaintiff may renew his motion in the future if exceptional  
15 circumstances arise. Any renewed motion must establish plaintiff meets both prongs of the  
16 "exceptional circumstances" test. *See Weygandt*, 718 F.2d at 954.

17 The Clerk shall provide a copy of this Order to plaintiff.

18 DATED this 6th day of July, 2017.

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22 BRIAN A. TSUCHIDA  
23 United States Magistrate Judge